

U.S. Foreign Aid to the Palestinians

Jim Zanotti

Specialist in Middle Eastern Affairs

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Summary

Since the establishment of limited Palestinian self-rule in the West Bank and Gaza Strip in the mid-1990s, the U.S. government has committed approximately \$5 billion in bilateral assistance to the Palestinians, who are among the world's largest per capita recipients of international foreign aid. Successive Administrations have requested aid for the Palestinians in apparent support of at least three major U.S. policy priorities of interest to Congress:

- Preventing terrorism against Israel from Hamas and other militant organizations.
- Fostering stability, prosperity, and self-governance in the West Bank that inclines Palestinians toward peaceful coexistence with Israel and a “two-state solution.”
- Meeting humanitarian needs.

Since June 2007, these U.S. policy priorities have crystallized around the factional and geographical split between the Fatah-led Palestinian Authority (PA) in the West Bank and Hamas in the Gaza Strip. Through its provision of aid to the Palestinians, the United States faces challenges in bolstering PA leaders in the West Bank without compromising their domestic popular appeal or encouraging authoritarian behavior. Longtime PA Prime Minister Salam Fayyad, who was praised by many Western officials—including several Members of Congress—as a champion of reform and transparency, resigned in April 2013. Fayyad was replaced by a government that may be more sensitive to the preferences of PA President Mahmoud Abbas than those of international donors. Congress and the Obama Administration also face challenges in addressing humanitarian needs in Gaza while monitoring the status of Hamas's rule there amidst regional flux and increasing instability along the border in Egypt's Sinai Peninsula.

From FY2008 to the present, annual regular-year U.S. bilateral assistance to the West Bank and Gaza Strip has averaged around \$500 million, including annual averages of approximately \$200 million in direct budgetary assistance and \$100 million in non-lethal security assistance for the PA in the West Bank. In line with Obama Administration requests, funding levels declined slightly in FY2013, with the new baseline of overall annual assistance closer to \$440 million. Because of congressional concerns that, among other things, U.S. aid to the Palestinians might be diverted to Palestinian terrorist groups, the aid is subject to a host of vetting and oversight requirements and legislative restrictions. Additionally, since FY2011, Congress has taken various forms of action in response to Palestine Liberation Organization (PLO) initiatives in the United Nations and other international forums aimed at increasing international recognition of Palestinian statehood outside of negotiations with Israel. The PLO reportedly agreed to put these initiatives on hold as they resumed talks with Israel in the summer of 2013. Additionally, the United States is the largest single-state donor to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

U.S. assistance to the Palestinians is given alongside assistance from other international donors, and U.S. policymakers routinely call for greater or more timely assistance from Arab governments in line with pledges those governments make. The PA remains dependent on external donor assistance to meet its budgetary needs—especially its large public payroll—and it also seeks foreign investment to jumpstart its private sector. Even if the immediate objectives of U.S. assistance programs for the Palestinians are met, the long-term utility of U.S. aid in encouraging regional stability and Palestinian economic and political self-sufficiency might depend to some extent on progress toward a political solution that addresses Palestinian national aspirations and Israeli security demands.

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Introduction: Issues for Congress

U.S. aid to the Palestinians is intended to promote at least three major U.S. policy priorities of interest to Congress:

- Preventing terrorism against Israel from Hamas and other militant organizations.
- Fostering stability, prosperity, and self-governance in the West Bank that inclines Palestinians toward peaceful coexistence with Israel and a “two-state solution.”
- Meeting humanitarian needs.

Since June 2007, these U.S. policy priorities have crystallized around the geographical and factional split between

1. *West Bank/Fatah*: the U.S.- and Western-supported Palestinian Authority (PA) in the West Bank led by President Mahmoud Abbas (who also leads the secular nationalist Fatah faction and the Palestine Liberation Organization, or PLO¹); and
2. *Gaza Strip/Hamas*: the de facto regime led by Hamas in Gaza, which receives support from Iran along with substantial non-state support and has been designated a Foreign Terrorist Organization (FTO), a Specially Designated Terrorist (SDT), and a Specially Designated Global Terrorist (SDGT) by the U.S. government.

From FY2008 to the present, annual regular-year U.S. bilateral assistance to the West Bank and Gaza Strip has averaged around \$500 million (see **Table 1**), including annual averages of approximately \$200 million in direct budgetary assistance and approximately \$100 million in non-lethal security assistance for the PA in the West Bank. The remainder—approximately \$200 million on average per year—has been dedicated to project assistance for the West Bank and Gaza through U.S. government grants to contracting organizations. In line with Obama Administration requests, funding levels declined slightly in FY2013, with the new baseline of overall annual assistance closer to \$440 million. Much of this assistance is in direct support of the PA’s security, governance, development, and reform programs aimed at building Palestinian institutions in advance of potential statehood. The post-2007 annual average of U.S. bilateral assistance is substantially greater than the approximate annual average of \$170 million from 2000-2007 and \$70 million from 1994-1999.

See **Appendix A** for recent historical background information. Effective implementation of aid projects faces resistance from challenges such as continued Israeli-Palestinian diplomatic

¹ The PLO is the generally recognized international representative of the Palestinian people. The PA was created pursuant to various Israel-PLO agreements during the Oslo process in the 1990s as the organ of governance for limited Palestinian self-rule in the West Bank and Gaza Strip. Officially, the PLO represents the Palestinian national movement in international bodies, including the United Nations. However, some characterizations of Palestinian efforts in recent years to garner international support for statehood refer to the PA’s involvement because Mahmoud Abbas leads both the PLO and the PA, because some other PA officials (including Foreign Minister Riad Malki) have been publicly involved in the efforts, and because one could argue that the territorial writ of the PA involves it in any issue pertaining to the possible establishment of a Palestinian state within provisional or permanent borders. For the remainder of this report, references to “PLO” initiatives in the United Nations regarding statehood will be construed as referring both to PLO and PA participation, to the extent it exists.

disputes, past and possible future Palestinian pursuit of international support of statehood, and Hamas's role in Palestinian politics. Informal congressional holds (see **Appendix B**) delayed significant portions of already-appropriated FY2011 and FY2012 U.S. aid, but these holds were eventually released.

Because of congressional concerns that, among other things, U.S. funds might be diverted to Palestinian terrorist groups, aid to Palestinians is subject to a host of vetting and oversight requirements and legislative restrictions (see “Major Conditions, Limitations, and Restrictions on Aid” below). U.S. assistance to the Palestinians is given alongside assistance from other international donors, and U.S. policymakers routinely call for greater or more timely assistance from Arab governments in line with the pledges those governments make.

Additional U.S. humanitarian assistance for Palestinian refugees in Gaza and elsewhere continues through contributions to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). U.S. contributions to UNRWA, which have totaled more than \$4.65 billion since UNRWA's inception in 1950 (see **Table 2Error! Reference source not found.** below), have averaged over \$200 million annually since 2007.

FY2013 Aid and FY2014 Request

Aid to the Palestinians for FY2013 was obligated close to the levels initially requested by the Obama Administration—\$370 million from the Economic Support Fund (ESF) account, \$70 million from the International Narcotics Control and Law Enforcement (INCLE) account—but ESF funding allocated for the Palestinians was reduced by approximately 3.5%, possibly owing to budget sequestration.² The Administration has requested the same baseline amounts for FY2014. ESF amounts would be divided between direct budgetary assistance for the PA and project assistance. Of the \$70 million requested for the INCLE account, \$54 million is anticipated to go toward training, non-lethal equipment, and garrisoning assistance for PA security forces in the West Bank. The remaining \$16 million will presumably go toward rule of law training for PA prosecutors and police, human rights training for personnel who run PA prisons, and criminal justice system infrastructure.

Major Conditions, Limitations, and Restrictions on Aid

Annual appropriations legislation routinely contains the following conditions, limitations, and restrictions on U.S. aid to Palestinians:³

² ESF and INCLE appropriations for FY2013 were made pursuant to the Consolidated Appropriations Act, 2012 (P.L. 112-74), as extended by continuing resolution authority in P.L. 112-175. For information on budget sequestration and its general impact on U.S. foreign aid, see CRS Report R42994, *The Budget Control Act, Sequestration, and the Foreign Affairs Budget: Background and Possible Impacts*, by Susan B. Epstein.

³ Conditions, limitations, and restrictions for FY2013 are contained in the Consolidated Appropriations Act, 2012 (P.L. 112-74), §§7035-7040 and 7086, as extended by continuing resolution authority in P.L. 112-175.

- *Hamas and Terrorism*: No aid is permitted for Hamas or Hamas-controlled entities, and no aid may be made available for the purpose of recognizing or otherwise honoring individuals who commit or have committed acts of terrorism.
- *Power-Sharing PA Government*: No aid is permitted for a power-sharing PA government that includes Hamas as a member, or that results from an agreement with Hamas and over which Hamas exercises “undue influence,” unless the President certifies that the PA government, including all ministers, has accepted the following two principles embodied in Section 620K of the Palestinian Anti-Terrorism Act of 2006 (PATA), P.L. 109-446: (1) recognition of “the Jewish state of Israel’s right to exist” and (2) acceptance of previous Israeli-Palestinian agreements (the “Section 620K principles”).⁴ If the PA government is “Hamas-controlled,” PATA applies additional conditions, limitations, and restrictions on aid. Under PATA, in the event that Hamas participation in a PA government precludes ministries from receiving aid, the PA president and judiciary (if not Hamas-controlled) may under certain conditions receive aid pursuant to a presidential waiver for national security purposes.

It is unclear whether a consensus government of the type anticipated under various Fatah-Hamas agreements since 2011 would come under the legal definition of a “power-sharing PA government that includes Hamas as a member” or a government over which Hamas exercises “undue influence.” It is also unclear whether it would come under the legal definition of a “Hamas-controlled” PA government, and thus trigger the additional conditions on U.S. aid cited above. Under PATA, the Palestinian Legislative Council (PLC) is considered to be part of the PA, but the legal consequences if the PLC were to reconvene with the majority Hamas won in 2006 are still unclear.⁵

- *PLO and Palestinian Broadcasting Corporation (PBC)*: No aid is permitted for the PLO or for the PBC.
- *Palestinian State*: No funds may be provided to support a future Palestinian state unless the Secretary of State certifies that the governing entity of the state:
 1. has demonstrated a firm commitment to peaceful coexistence with the State of Israel;
 2. is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza in cooperation with Israel and others; and
 3. is working with other countries in the region to “vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will

⁴ These principles have some similarity to the principles the so-called international Quartet (United States, European Union, U.N. Secretary-General’s office, and Russia) has required Hamas to meet before accepting dealings with it: (1) recognizing Israel’s right to exist, (2) renouncing violence, and (3) accepting previous Israeli-Palestinian agreements.

⁵ Although a Hamas-majority PLC could technically pass legislation controlling various functions of the PA government, a document summarizing a May 16, 2011, 3D Security Initiative briefing for a congressional staff audience stated that the PLC would not likely play an activist role—absent widespread consensus across factions—given the interim nature of a potential power-sharing agreement as a placeholder anticipating PA presidential and legislative elections.

enable Israel and an independent Palestinian state to exist within the context of full and normal relationships.”⁶

This restriction does not apply to aid meant to reform the Palestinian governing entity so that it might meet the three conditions outlined above. Additionally, the President is permitted to waive this restriction for national security purposes.

- *PA Personnel in Gaza:* No aid is permitted for PA personnel located in Gaza. Although the PA does pay salaries to individuals located in Gaza, USAID insists that U.S. direct budgetary assistance to the PA goes toward paying the PA’s suppliers and commercial creditors (see “Direct Assistance to the Palestinian Authority” below).
- *Palestinian Membership in the United Nations or U.N. Specialized Agencies:* No Economic Support Fund aid is permitted to the PA if the Palestinians obtain from this point forward (the restriction does not apply to Palestinian membership in UNESCO) “the same standing as member states or full membership as a state in the United Nations or any specialized agency thereof outside an agreement negotiated between Israel and the Palestinians.” Because U.N. General Assembly Resolution 67/19, which was adopted in November 2012, did not provide member state status to “Palestine” at the United Nations (it only conferred non-member state observer status), it did not trigger the aid restriction. The Secretary of State may waive this restriction for national security reasons by filing a waiver detailing how “the continuation of assistance would assist in furthering Middle East peace.”⁷
- *Vetting, Monitoring, and Evaluation:* As discussed throughout this report, for U.S. aid programs for the Palestinians, annual appropriations legislation routinely requires executive branch reports and certifications, as well as internal and Government Accountability Office (GAO) audits. These requirements appear to be aimed at, among other things, preventing U.S. aid from benefitting terrorists or abetting corruption, and assessing aid programs’ effectiveness.⁸

⁶ P.L. 112-74, §7036(a)(2).

⁷ P.L. 112-74, §7086(a).

⁸ See, e.g., P.L. 112-74, §§7039-7040. GAO audits are available on the following U.S. aid programs to the Palestinians: (1) Economic Support Fund, including direct assistance to the PA and project assistance (audit for FY2010-FY2011 accessible at <http://www.gao.gov/assets/600/592431.pdf>), (2) security assistance to the PA through the International Narcotics Control and Law Enforcement account (<http://www.gao.gov/new.items/d10505.pdf>), and (3) contributions to UNRWA through the Migration and Refugee Assistance and Emergency Refugee and Migration Assistance accounts (<http://www.gao.gov/new.items/d09622.pdf>).

Types of U.S. Bilateral Aid to the Palestinians

Table I. U.S. Bilateral Assistance to the Palestinians, FY2008-FY2014

(regular and supplemental appropriations; current year \$ in millions)

Account	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014 ^a
ESF	389.5	776.0	400.4	395.7	395.7	356.7	370.0
P.L. 480 Title II (Food Aid)	-	20.7	-	-	-	-	-
INCLE	25.0	184.0	100.0	150.0	100.0	70.0	70.0
Total	414.5	980.7	500.4	545.7	495.7	426.7	440.0

Sources: U.S. State Department, USAID.

Notes: All amounts are approximate; for purposes of this table and this report, “bilateral assistance” does not include U.S. contributions to UNRWA or other international organizations from the Migration and Refugee Assistance (MRA) or Emergency Refugee and Migration Assistance (ERMA) accounts, regardless of how the term is defined in legislation.

a. Amounts stated for FY2014 have been requested but not yet appropriated.

Economic Support Fund Project Assistance

Types of Funding Programs

Most economic aid to the Palestinians is appropriated through the ESF account and provided by the U.S. Agency for International Development (USAID) and, to a far lesser degree, the State Department⁹ to implementing partners (both for-profit and non-profit contractors) operating in the West Bank and the Gaza Strip. Funds are allocated in this program for projects in sectors such as humanitarian assistance, economic development, democratic reform, improving water access and other infrastructure, health care, education, and vocational training. Currently most, if not all, funds for the Gaza Strip are dedicated to humanitarian assistance and economic recovery needs.¹⁰ In addition to bilateral U.S. assistance to the Palestinians, Congress generally recommends that an annual amount from the ESF and Development Assistance accounts be put toward a “New Generation in the Middle East” initiative to “build understanding, tolerance, and mutual respect among the next generation of Israeli and Palestinian leaders.”¹¹

⁹ For example, see the State Department’s Middle East Partnership Initiative (MEPI) West Bank/Gaza website at <http://mepi.state.gov/where-we-work2/west-bank--gaza.html>.

¹⁰ For further detail on the types of projects funded, see Government Accountability Office, *U.S. Assistance to the West Bank and Gaza for Fiscal Years 2010 and 2011*, GAO Foreign Assistance Report 12-81, July 13, 2012.

¹¹ P.L. 112-74, §7062(f)(2). The amount recommended in this FY2012 act, which through continuing resolution authority remains the foundation for current spending, was \$10 million. Moreover, appropriations of a few million dollars annually generally go toward (1) USAID’s Conflict Management and Mitigation Israeli-Palestinian people to people programs, out of the Bureau of Democracy, Conflict, and Humanitarian Assistance budget; and (2) the Middle East Multilaterals and Middle East Regional Cooperation programs, which support Arab-Israeli cooperation in various research and technical fields.

Vetting Requirements and Procedures

USAID's West Bank and Gaza program is subject to a specialized vetting process (for non-U.S. organizations and individuals) and to yearly audits intended to ensure that funds are not diverted to Hamas or other organizations classified as terrorist groups by the U.S. government.¹² This vetting process has become more rigorous in recent years, presumably in response to allegations that U.S. economic assistance was indirectly supporting Palestinian terrorist groups, and following an internal audit in which USAID reportedly concluded it could not "reasonably ensure" that its money would not wind up in terrorist hands.¹³

A February 2009 statement from USAID described its revamped vetting procedures as follows:

All NGOs applying for grants from USAID are required to certify, before award of the grant will be made, that they do not provide material support to terrorists.... Before making an award of either a contract or a grant to a local NGO, the USAID West Bank/Gaza Mission checks the organization and its principal officers, directors and other key personnel against lists maintained by the Office of Foreign Assets Control (OFAC) within the U.S. Department of Treasury. The Mission also checks these organizations and individuals through law enforcement and intelligence community systems accessed by USAID's Office of Security. At present, the Mission collects additional information up front in addition to the individual's full [four-part] name, such as a government issued photo-ID number and the individual's date and place of birth.... [USAID's] West Bank/Gaza program possess[es] the most comprehensive partner vetting system for foreign assistance throughout the U.S. Government.¹⁴

A May 2009 GAO report found that USAID had strengthened its antiterrorism policies and procedures in response to recommendations GAO had made in a 2006 report.¹⁵

¹² P.L. 112-74, §7039(b) sets forth the legal requirements for vetting: "Prior to the obligation of funds appropriated by this Act under the heading 'Economic Support Fund' for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity nor, with respect to private entities or educational institutions, those that have as a principal officer of the entity's governing board or governing board of trustees any individual that has been determined to be involved in, or advocating terrorist activity or determined to be a member of a designated foreign terrorist organization: *Provided*, That the Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which the Secretary has determined to be involved in or advocating terrorist activity."

¹³ Jim Tankersley, "Audit: Terrorists Got U.S. Aid; Agency's Screening Called Inadequate," *Chicago Tribune*, November 16, 2007; See also Testimony of Henrietta Fore, then USAID Administrator and Director of U.S. Foreign Assistance, House Appropriations Subcommittee on State, Foreign Operations, and Related Programs Hearing on the Fiscal 2009 Budget for the U.S. Agency for International Development, February 27, 2008.

¹⁴ Statement issued by USAID to CRS on February 5, 2009. USAID does not subject U.S. organizations to vetting due to U.S. privacy law concerns. See GAO, *Measures to Prevent Inadvertent Payments to Terrorists Under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain*, GAO Foreign Assistance Report 09-622, May 2009.

¹⁵ See GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit. A schematic detailing USAID's vetting process is found on page 42 of the report. GAO did recommend in the report that USAID take steps to ensure that it and its primary contractors use the same rigor at the subcontractor level that they employed in requiring antiterrorism clauses and certifications during their contracting process.

Direct Assistance to the Palestinian Authority

Budgetary assistance is a major part of the U.S. strategy to support the PA in the West Bank, although some Members of Congress have voiced expectations of better governance and a more proactive approach by the PA toward peace with Israel in return.¹⁶ According to annual foreign operations appropriations laws, congressionally approved funds for the West Bank and Gaza Strip cannot be given directly to the PA unless the President submits a waiver to Congress stating that doing so is in the interest of national security, and the Secretary of State certifies that there is a single PA treasury account, civil service roster, and payroll.¹⁷ Annual appropriations legislation also routinely places conditions on aid to any power-sharing PA government “of which Hamas is a member,” and the FY2012 bill extended these conditions to any PA government that results from an agreement with Hamas over which Hamas has “undue influence” (for further discussion, see “Hamas and a ‘Unity Government’?” below). Even after money is transferred to the PA’s treasury account, the United States retains prior approval of any transactions from that account, along with a power of audit over those funds and a three-year right of refund.¹⁸

During the final year of President George W. Bush’s Administration, President Bush issued waivers providing \$300 million in direct budgetary assistance to the PA. President Barack Obama has followed the precedent Bush established by authorizing a total of \$898 million in direct budgetary assistance, as follows:

- In July 2009, \$200 million in ESF money were transferred to the PA in the wake of a presidential waiver issued by President Obama.¹⁹
- In December 2009, \$75 million in budgetary assistance were provided to the PA under the July presidential waiver as an advance on FY2010 ESF funds, pursuant to a continuing resolution (later appropriated pursuant to P.L. 111-117).
- In April 2010, another \$75 million in budgetary assistance from the ESF account were provided to the PA following a presidential waiver.²⁰
- In October 2010, \$150 million in budgetary assistance were provided to the PA following a presidential waiver as an advance on FY2011 ESF funds, pursuant to the Continuing Appropriations Act, 2011 (P.L. 111-242).²¹

¹⁶ Representative Ileana Ros-Lehtinen, Chairman of the House Foreign Affairs Committee’s Subcommittee on the Middle East and North Africa, voiced significant concern over the Administration’s provision of direct budgetary assistance to the PA when serving as ranking Member of the full committee in November 2010: “It is deeply disturbing that the Administration is continuing to bail out the Palestinian leadership when they continue to fail to meet their commitments, under international agreements and requirements outlined in U.S. law, including dismantling the Palestinian terrorist infrastructure, combating corruption, stopping anti-Israel and anti-Semitic incitement, and recognizing Israel’s right to exist as a Jewish state.” House Foreign Affairs Committee website: “Ros-Lehtinen Opposes Latest U.S. ‘Bailout’ Installment for Palestinian Authority,” November 11, 2010.

¹⁷ See P.L. 112-74, §7040 (“Limitation on Assistance for the Palestinian Authority”). In the event of a presidential waiver, §7040 requires the President to submit a report to the Committees on Appropriations “detailing the justification for the waiver, the purposes for which the funds will be spent, and the accounting procedures in place to ensure that the funds are properly disbursed: *Provided*, That the report shall also detail the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure.”

¹⁸ USAID FY2013 Congressional Notification #93, July 29, 2013.

¹⁹ Presidential Determination 2009-23.

²⁰ Presidential Memorandum 2010-06.

²¹ Presidential Determination 2011-1.

- In September 2011, \$50 million in budgetary assistance from the ESF account were provided following a presidential waiver.²²
- In April 2012, the Administration notified Congress of its intention to obligate an additional \$200 million in budgetary assistance from the ESF account, accompanied by a presidential waiver.²³ However, due to delays from informal congressional holds, this amount was ultimately reprogrammed for project assistance. In February 2013, \$200 million in FY2013 ESF funding were provided following a presidential waiver²⁴ to replace the reprogrammed amount.
- Another \$148 million in budgetary assistance from the ESF account were provided following a July 2013 presidential waiver.²⁵

Direct U.S. budgetary assistance to the PA goes toward paying off its commercial debt, as the following FY2012 USAID congressional notification language says:

Direct budget support will be used in the same manner as previous transfers—to service debt to commercial suppliers and commercial banks. Debt to commercial banks will be debt originally incurred for purchases from commercial suppliers. Each of the payees will have been vetted in accordance with USAID West Bank and Gaza existing procedures, as applicable, as a precondition to the transfer of funds by the PA for such payments. Funds may also be used to pay for upcoming purchases from commercial suppliers or reimbursements of recent purchases from suppliers.²⁶

Despite this explanation of U.S. budgetary assistance to the PA, some commentators allege that U.S. funding indirectly supports PA salaries, including those supposedly paid to some Palestinians who are imprisoned by Israel on terrorism charges.²⁷

U.S. Security Assistance to the Palestinian Authority

As mentioned above, aid from the INCLE account has been given to train, reform, advise, house, and provide non-lethal equipment for PA civil security forces in the West Bank loyal to President Abbas. This aid is aimed at countering militants from organizations such as Hamas and Palestine Islamic Jihad, and establishing the rule of law for an expected Palestinian state. In recent years, some of this training and infrastructure assistance has been provided to strengthen and reform the PA criminal justice sector. As mentioned above, the Obama Administration has requested an additional \$70 million in FY2014 INCLE funding.

Since Hamas gained control of the Gaza Strip, the office of the U.S. Security Coordinator (USSC) for Israel and the Palestinian Authority (a three-star U.S. general/flag officer, supported by U.S.

²² USAID FY2011 Congressional Notification #133, August 18, 2011; Presidential Determination 2011-14, August 30, 2011.

²³ USAID FY2012 Congressional Notification #47, April 27, 2012; Presidential Memorandum, April 25, 2012.

²⁴ USAID FY2013 Congressional Notification #25, February 1, 2013; Presidential Memorandum—Presidential Determination Regarding Waiver of Restriction on Providing Funds to the Palestinian Authority, February 8, 2013.

²⁵ USAID FY2013 Congressional Notification #93, July 29, 2013; Presidential Memorandum—Waiver of Restriction on Providing Funds to the Palestinian Authority, July 26, 2013.

²⁶ USAID FY2013 Congressional Notification #93, July 29, 2013.

²⁷ See, e.g., Herb Keinon, “‘U.S. paying salaries for jailed Palestinian terrorists,’” *jpost.com*, July 26, 2011.

and allied staff and military officers from the United Kingdom, Canada, and seven other countries) has worked in coordination with the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) to sponsor and oversee training for PA security forces personnel, many of whom have been newly recruited. From 2007 to 2012, nine full PA National Security Forces (NSF)²⁸ special battalions (4,987 personnel) and two Presidential Guard (PG)²⁹ battalions (1,078 personnel) received initial training at the Jordan International Police Training Center (JIPTC).³⁰ Additionally, approximately 613 members of the PA Civil Defense (firefighters and other emergency responders) have been trained in Amman at the Jordanian Academy of Civil Protection.³¹

Following the completion of initial training for newly-formed PA security force battalions, the USSC/INL program reportedly shifted to a less resource intensive "advise and assist" role alongside its efforts to assist the PA in improving the functioning of its criminal justice system. The self-described USSC/INL role is to help PA security forces "develop indigenous readiness, training, and logistics programs and the capability to maintain/sustain their force structure readiness and infrastructure."³²

The USSC/INL security assistance program exists alongside other assistance and training programs provided to Palestinian security forces and intelligence organizations by various other countries and the European Union (EU).³³ Some reports cite the probable existence of covert U.S. assistance programs as well.³⁴ By most accounts, the PA forces receiving training have shown increased professionalism and have helped substantially improve law and order and lower the profile of terrorist organizations in West Bank cities.³⁵ Israeli officials generally support the USSC/INL program, routinely citing both the PA forces' greater effectiveness as well as increased and sustained levels of Israel-PA security cooperation in the West Bank since the program began.

²⁸ The NSF (with approximately 8,000 active personnel), the organization that receives the greatest amount of training and other resources as a result of U.S. INCLE assistance, is considered by many Palestinians to be analogous to a national army—housed in barracks, classified by military rank, and subject to a military-style command structure.

²⁹ The PG's main purposes are to protect the PA president and other VIPs, to respond to crises, and to protect official PA facilities.

³⁰ Neither NSF nor PG personnel possess the legal authority to make arrests when tasked with law and order missions. Therefore, they generally operate as strategic reinforcements and force protection for the organizations empowered to make arrests—the Palestinian Civil Police (PCP, with approximately 7,200 active personnel) and two intelligence organizations (the Preventive Security Organization and the General Intelligence Service) that are less visible than the PCP and NSF in day-to-day law and order tasks.

³¹ The information in this paragraph on PA security forces training in Jordan was provided to CRS on January 14, 2013, by a senior Western official based in the region.

³² Testimony of Lieutenant General Michael Moeller, then U.S. Security Coordinator for Israel and the PA, Hearing of the House Committee on Foreign Affairs, Subcommittee on the Middle East and South Asia, July 12, 2011.

³³ In January 2006, the EU Coordinating Office for Palestinian Police Support (EUPOL COPPS) was launched to help train and equip the Palestinian Civil Police. EUPOL COPPS also advises the PA on criminal justice and rule of law issues. EUPOL COPPS has 71 international staff and 41 local hires in the West Bank, and an annual operating budget of approximately €9.5 million. See <http://eupolcopps.eu>.

³⁴ See, e.g., Yezid Sayigh, *Policing the People, Building the State: Authoritarian Transformation in the West Bank and Gaza*, Carnegie Endowment for International Peace, February 2011; Ian Cobain, "CIA working with Palestinian security agents," *guardian.co.uk*, December 17, 2009.

³⁵ Improvements in the PA security forces' leadership and capacity may factor into Israeli data that—according to information a senior Western official based in the region provided to CRS on June 12, 2012—cited a 96% decrease in West Bank terrorist attacks since 2007. Other factors contributing to the decline in terrorism may include enhanced Israeli security measures, Palestinian fatigue with or decreasing appetite for politically-motivated violence or popular resistance, and various political and economic incentives and other developments.

This cooperation, however, renders the PA vulnerable to criticism from Hamas and others seeking to undermine the PA's popular credibility as a champion of Palestinian national aspirations.³⁶

Additionally, the aspiration to coordinate international security assistance efforts and to consolidate the various PA security forces under unified civilian control that is accountable to rule of law and to human rights norms remains largely unfulfilled. PA forces have come under criticism for the political targeting of Hamas—in collaboration with Israel and the United States—through massive shutdowns and forced leadership changes to West Bank charities with alleged ties to Hamas members and through reportedly arbitrary detentions of Hamas members and supporters.³⁷ Also, since 2012, some PA security personnel have reportedly been involved in criminal activity in a way that has raised questions about the sustainability of law and order in parts of the northern West Bank that have been held out as models of progress. This reportedly mainly involved personnel who had been granted amnesty from previous involvement with terrorist groups. At least one report cited unnamed Palestinian officials asserting that those arrested by the PA for criminal activity included a few personnel who belonged to battalions that had received U.S.-backed training.³⁸ Some of those arrested reportedly “claimed to have been humiliated and tortured by their colleagues in the security forces and placed in cells with Hamas members against whom they had fought years earlier.”³⁹

Some Palestinians and outside observers assert that the effectiveness and credibility of PA operations are undermined by Israeli restrictions—including curfews, checkpoints, no-go zones, and limitations on international arms and equipment transfers—as well as by Israel's own security operations in the West Bank⁴⁰ and at crossings into Gaza. Israel claims that its continuing operations in the West Bank are necessary in order to reduce the threat of terrorism. It is unclear how concerns about the effectiveness of the PA security forces might evolve if anti-Israel protests and occasional instances of Israeli-Palestinian confrontation in the West Bank increase in frequency and intensity amid heightened tension.

How potential Fatah-Hamas consensus on a PA governing arrangement may affect the activities of PA security forces in the West Bank is unclear, although it is possible that these activities will remain largely unchanged until either PA presidential and legislative elections can be held or Fatah and Hamas can agree on security coordination for both the West Bank and Gaza. The likelihood of either contingency occurring is seriously questioned by many observers.

³⁶ Gabe Kahn, “Hamas: PA-Israel Security Cooperation Blocking Unity Deal,” *IsraelNationalNews.com*, March 9, 2012.

³⁷ See, e.g., Nathan Thrall, “Our Man in Palestine,” *New York Review of Books*, October 14, 2010.

³⁸ See, e.g., Karin Brulliard, “Drama in West Bank city of Jenin shows cracks in Palestinian nation-building project,” *Washington Post*, May 25, 2012.

³⁹ International Crisis Group, *Buying Time? Money, Guns and Politics in the West Bank*, Middle East Report No. 142, May 29, 2013.

⁴⁰ These operations underscore the fact that the Israeli-Palestinian agreements that authorized the creation of Palestinian security forces in the 1990s in areas of limited Palestinian self-rule contained clauses that preserved Israel's prerogative to conduct operations in those areas for purposes of its own security.

U.S. Contributions to UNRWA

Overview

The United States is the largest single-state donor to UNRWA. According to UNRWA's website, its mandate from the U.N. General Assembly is to "provide relief, human development and protection services to Palestine refugees and persons displaced by the 1967 hostilities in its fields of operation: Jordan, Lebanon, the Syrian Arab Republic, West Bank and the Gaza Strip."⁴¹ "Palestine refugees" include original refugees from the 1948 Arab-Israeli war and their descendants—now comprising approximately five million Palestinians in the places listed above. U.S. contributions to UNRWA—separate from U.S. bilateral aid to the West Bank and Gaza—come from the Migration and Refugee Assistance (MRA) account and the Emergency Refugee and Migration Assistance (ERMA) account. Since UNRWA's inception in 1950, the United States has provided the agency with approximately \$4.65 billion in contributions (see **Table 2** below). Other refugees worldwide fall under the mandate of the U.N. High Commissioner for Refugees (UNHCR).

The budget for UNRWA's core activities (general fund) for 2013 is approximately \$663 million, funded mainly by Western governments, international organizations, and private donors.⁴² Core activities include providing food, shelter, education, medical care and other humanitarian services to designated beneficiaries. In December 2012, UNRWA Deputy Commissioner-General Margot Ellis forecast a \$69 million funding shortfall for 2013,⁴³ which has reportedly led to targeted cuts to benefits such as health care and cash allowances.⁴⁴ UNRWA also creates special emergency funds for pressing humanitarian needs. U.S. contributions (which are made from the Migration and Refugee Assistance (MRA) and Emergency Refugee and Migration Assistance (ERMA) accounts managed by the State Department's Bureau of Population, Refugees, and Migration (PRM)) totaled \$233.3 million for FY2012 (\$125.4 million for the general fund, \$103.8 million for emergency funds and special projects). According to PRM, \$275.7 million in FY2013 contributions have been disbursed as of mid-September 2013 (\$135.1 million for the general fund, \$140.6 million for emergency funds and special projects).⁴⁵

⁴¹ According to a 2010 article by the chief of UNRWA's international law division, "UNRWA does not have a constituent instrument (unlike the World Health Organization [WHO]) or a statute (unlike the Office of the United Nations High Commissioner for Refugees [UNHCR]); its mandate is not conveniently stated in one place and must be derived from all relevant resolutions and requests." Lance Bartholomeusz, "The Mandate of UNRWA at Sixty," *Refugee Survey Quarterly*, vol 28, nos. 2 and 3, 2010.

⁴² According to statistics culled from UNRWA's website, U.S. contributions in 2012 constituted approximately 20% of the UNRWA General Fund budget and 26% of the total budget. Aggregate contributions from the European Commission and European states (including both EU members and non-members) and regions constituted approximately 56% of the total budget. Aggregate contributions from the Muslim world constituted approximately 9% of the total budget.

⁴³ Transcript of remarks by UNRWA Deputy Commissioner-General Margot Ellis at 2013 Pledging Conference, United Nations, New York, December 4, 2012, available at <http://www.unrwa.org/etemplate.php?id=1550>.

⁴⁴ Benefit cuts have generated protests among refugees, most notably in Gaza and Lebanon. "Hundreds protest at UNRWA office in Gaza City," *maannews.net*, April 9, 2013; "Nahr al-Bared residents protest over UNRWA cuts," *Daily Star* (Lebanon), September 4, 2013.

⁴⁵ CRS email correspondence with State Department official, September 16, 2013. According to this correspondence, "\$75,000,000 [of the FY2013 contributions were allocated] for Emergency Appeal for the West Bank and Gaza, \$3,000,000 for 'Restoring Dignity' appeal for Lebanon, which assists Nahr al Bared residents who remain displaced, (continued...)

Table 2. Historical U.S. Government Contributions to UNRWA

(in \$ millions)

Fiscal Year(s)	Amount	Fiscal Year(s)	Amount
1950-1989	1,473.3	2002	119.3
1990	57.0	2003	134.0
1991	75.6	2004	127.4
1992	69.0	2005	108.0
1993	73.8	2006	137.0
1994	78.2	2007	154.2
1995	74.8	2008	184.7
1996	77.0	2009	268.0
1997	79.2	2010	237.8
1998	78.3	2011	249.4
1999	80.5	2012	233.3
2000	89.0	2013	275.7
2001	123.0	TOTAL	4,657.5

Source: U.S. State Department.**Notes:** All amounts are approximate.

Until the 1990s, Arab governments refrained from contributing to UNRWA's budget in an effort to keep the Palestinian refugee issue on the international agenda and to press Israel to accept responsibility for their plight. Since then, several Arab states have made relatively modest annual contributions toward UNRWA's core activities. According to one UNRWA official, some Arab states, notably Saudi Arabia and Kuwait, have given "very generously to emergencies—like Syria today and Gaza and Lebanon in the past—and to special construction (housing) projects."⁴⁶

In Gaza, most observers acknowledge that the role of UNRWA in providing basic services (i.e., food, health care, education) takes much of the governing burden off Hamas. As a result, some complain that this amounts to UNRWA's enabling of Hamas and argue that its activities should be discontinued or scaled back. This is in addition to critics who question UNRWA's existence because they believe it perpetuates Palestinian dependency and resentment against Israel.⁴⁷ However, many others, U.S. and Israeli officials included, assert that UNRWA plays a valuable role by providing stability and serving as the eyes and ears of the international community in Gaza. They generally characterize UNRWA's continued presence as preferable to the uncertain alternative that might emerge if UNRWA were removed from the picture,⁴⁸ presumably at least

(...continued)

\$10,000,000 for Gaza reconstruction, and \$52,600,000 for emergency needs in Syria, Lebanon, and Jordan resulting from the conflict in Syria."

⁴⁶ CRS email correspondence with UNRWA official, September 23, 2013. As mentioned in footnote 42, aggregate contributions from the Muslim world constituted approximately 9% of UNRWA's total 2012 budget.

⁴⁷ See, e.g., Michael S. Bernstam, "The Palestinian Proletariat," *Commentary*, December 2010.

⁴⁸ See FY2014 Congressional Budget Justification for Foreign Operations, Department of State (Volume 2), p. 136: "USG support for UNRWA directly contributes to the U.S. strategic interest of meeting the humanitarian needs of (continued...)"

partly because Hamas or other groups appear incapable of adequately addressing the needs of the refugees who comprise approximately two thirds of Gaza's population.

The civil conflict that has been taking place in Syria since 2011 is significantly affecting the approximately 500,000 Palestinian refugees based there, with their resulting needs the subject of emergency funding requests from UNRWA. According to a September 2013 UNRWA report, more than half of these refugees have been displaced either in Syria or to neighboring countries.⁴⁹ According to a *U.N. News Centre* report, as of July 2013, as many as 71,000 of the Palestinian refugees based in Syria have sought refuge in already overcrowded camps in Lebanon.⁵⁰ Some Palestinian refugees in Syria have reportedly taken part in the conflict or incurred death, injury, displacement, or other forms of harm, with those from the Yarmouk refugee camp in greater Damascus particularly affected.⁵¹ Future events could exacerbate the dilemma of Palestinian refugees in Syria and increase UNRWA needs assessments.

Issues for Congress

Israeli officials and other observers periodically criticize UNRWA for various reasons. For example, some characterize the organization's vetting procedures as insufficient or flawed,⁵² and some claim that it engages in "one-sided political advocacy."⁵³ UNRWA's website states that its role encompasses "global advocacy for Palestine refugees" in addition to the provision of assistance and protection. UNRWA's officials maintain that it fulfills its mandate as well as can be expected under challenging circumstances (i.e., UNRWA's lack of a robust policing capability and other operational limitations, political pressures, and security concerns).⁵⁴

(...continued)

Palestinians, while promoting their self-sufficiency. UNRWA plays a stabilizing role in the Middle East through its assistance programs, serving as an important counterweight to extremist elements. Given UNRWA's unique humanitarian role in areas where terrorist organizations are active, the Department of State continues to monitor closely UNRWA's obligations to take all possible measures to ensure that terrorists do not benefit from USG funding."

⁴⁹ UNRWA, Syria Crisis Situation Update (Issue No. 59), September 6, 2013.

⁵⁰ "In Lebanon, UN officials get first-hand look at plight of Palestinian refugees from Syria," *U.N. News Centre*, July 15, 2013. The September 2013 UNRWA report stated that about 45,000 Palestinian refugees from Syria (PRS) are receiving assistance in Lebanon and that "8,833 PRS [Palestinian refugees from Syria] have registered with UNRWA for assistance in Jordan. UNRWA tracks reports of PRS in Egypt, Turkey, Gaza and UNHCR reports up to 1,000 fled to Malaysia, Thailand and Indonesia." Relatively few PRS have fled to Jordan given its reported policy of generally refusing entry from Syria by (or, in some cases, forcibly returning) Palestinian refugees. Jordan reportedly applies similar general policies to single men and undocumented individuals seeking to flee Syria.

⁵¹ Nicolas Pelham, "Jordan's Syria Problem," *New York Review of Books Blog*, January 10, 2013.

⁵² James G. Lindsay (former general counsel for UNRWA), *Fixing UNRWA: Repairing the UN's Troubled System of Aid to Palestinian Refugees*, Washington Institute of Near East Policy, Policy Focus #91, January 2009; James Phillips, "The Gaza Aid Package: Time to Rethink U.S. Foreign Assistance to the Palestinians," The Heritage Foundation WebMemo No. 2333, March 9, 2009.

⁵³ Ibid.; Israel Ministry of Foreign Affairs Statement: "Israel calls on UNRWA to refrain from one-sided political advocacy," August 27, 2013.

⁵⁴ A direct written rebuttal by Israeli academic Maya Rosenfeld to the former UNRWA general counsel's 2009 article was carried by UNRWA's website and is currently available at http://rete-eco.it/attachments/5172_Rejoinder%20to%20Lindsay_jan09.pdf.

Vetting of UNRWA Contributions

The primary concern raised by some Members of Congress is that U.S. contributions to UNRWA might be used to support terrorists. Section 301(c) of the 1961 Foreign Assistance Act (P.L. 87-195), as amended, says that “No contributions by the United States shall be made to [UNRWA] except on the condition that [UNRWA] take[s] all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.”

A May 2009 GAO report said that, since a previous GAO report in 2003, UNRWA and the State Department had strengthened their policies and procedures to conform with Section 301(c) legal requirements, but that “weaknesses remain.”⁵⁵ Neither report found UNRWA to be in noncompliance with Section 301(c), and to date, no arm of the U.S. government has made such a finding. The following are some points from the 2009 report and subsequent developments related to it:

- In the 2009 GAO report, State officials said compliance is evaluated based on State’s “internal level of confidence that UNRWA has taken all possible measures to ensure that terrorists are not receiving assistance, such as having procedures in place and taking measures to respond to issues that arise.”⁵⁶ State has not defined the term “all possible measures,” nor has it defined what would constitute noncompliance with Section 301(c).
- The report said that State had not established written criteria to use in evaluating UNRWA’s compliance with Section 301(c), and recommended that State consider doing so.⁵⁷ In November 2009, State and UNRWA signed a non-binding “Framework for Cooperation” for 2010. The document agreed that, along with the compliance reports UNRWA submits to State biannually, State would use 15 enumerated criteria “as a way to evaluate” UNRWA’s compliance with Section 301(c). State has signed a similar document with UNRWA in each subsequent year.⁵⁸
- UNRWA said that it screens its staff and contractors every six months and that it screened all Palestinian refugees and microfinance clients in December 2008 for terrorist ties to Al Qaeda and the Taliban, pursuant to a list established pursuant to U.N. Security Council Resolution 1267.⁵⁹ According to the State Department, UNRWA has subsequently screened all of the above groups roughly every six months.⁶⁰ UNRWA said that it is unable to screen those of its beneficiaries who

⁵⁵ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ “Framework for Cooperation Between UNRWA and the Government of the United States of America for 2013,” available at <http://www.state.gov/documents/organization/201638.pdf>. The 15 enumerated criteria are found in Annex 1 of the framework document.

⁵⁹ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit.

⁶⁰ CRS correspondence with State Department official, June 20, 2012.

- are displaced persons from the 1967 war because it does not collect information on those persons.⁶¹
- UNRWA's UN 1267 terrorist screening list does not include Hamas, Hezbollah, or most other militant groups that operate in UNRWA's surroundings. UNRWA is unwilling to screen its contractors and funding recipients against a list supplied by only one U.N. member state. Nevertheless, UNRWA officials did say that if notified by U.S. officials of potential matches, they would "use the information as a trigger to conduct their own investigation," which led to the report's recommendation that the State Department consider screening UNRWA contractors.⁶² In response, State says that it now screens quarterly, against the Excluded Parties Lists System (EPLS, which is a list of parties excluded throughout the U.S. government from receiving federal contracts⁶³), the names of vendors of contracts equal to or exceeding \$100,000, as provided by UNRWA. Each contract awardee is screened twice by separate State/PRM staff.... Since the EPLS screening by State/PRM began in 2009, the analysis has resulted in no matches against the EPLS.⁶⁴
 - UNRWA has established procedures to investigate inappropriate staff behavior. UNRWA [said] that it seeks information from authorities whenever staff are detained, convicted, or refused a permit or targeted by Israeli military forces. UNRWA officials said (in the 2009 GAO report) that they share the names of all UNRWA staff annually with the governments of Egypt, Israel, Jordan, Lebanon, Syria, and the Palestinian Authority.⁶⁵ In September 2013, UNRWA said that in the "few limited instances information about staff members from a government has been shared with UNRWA, it has been fully investigated and appropriate action has been taken."⁶⁶

⁶¹ GAO, *Measures to Prevent Inadvertent Payments to Terrorists*..., op. cit. In 2006, an organization that advocates for Palestinian refugees estimated the total number of 1967 displaced persons to be between 800,000 and 850,000. See BADIL Resource Center for Palestinian Residency & Refugee Rights, *Survey of Palestinian Refugees and Internally Displaced Persons 2004-2005*, May 2006.

⁶² GAO, *Measures to Prevent Inadvertent Payments to Terrorists*..., op. cit.

⁶³ U.S. General Services Administration website at https://www.acquisition.gov/faqs_what_is.asp.

⁶⁴ CRS email correspondence with State Department official, December 4, 2012.

⁶⁵ GAO, *Measures to Prevent Inadvertent Payments to Terrorists*..., op. cit.

⁶⁶ CRS email correspondence with UNRWA official, September 23, 2013.

- UNRWA officials said that UNRWA provides assistance “in the context of its humanitarian mandate, meaning that agency policy is generally not to deny education or primary healthcare benefits.” The officials said that if a refugee was denied benefits because of suspected militant or terrorist activities or ties, his or her child “would not be disqualified from attending an UNRWA school.”⁶⁷

Legislation and Oversight

Critiques of UNRWA’s operations are routinely raised, and some Members of Congress have supported legislation or resolutions aimed at increasing oversight of the agency, strengthening its vetting procedures, and/or capping U.S. contributions.⁶⁸

Some observers assert that UNRWA, by providing services to descendants of the original Palestinian refugees from 1948—by one count, the number of registered refugees has increased seven-fold since then—has effectively become “a silent partner to the Palestinian leadership” in perpetuating the refugee issue.⁶⁹ UNRWA officials insist—despite some observers’ assertions to the contrary⁷⁰—that established “principles and practice—as well as realities on the ground—clearly refute the argument that the right of return of Palestine refugees would disappear or be abandoned if UNHCR [the U.N. High Commissioner for Refugees, instead of UNRWA] were responsible for these refugees.”⁷¹

Opposing views on this subject highlight a broader debate over responsibility for the multi-generational Israeli-Palestinian conflict and whether attempts to resolve the refugee problem separately are advisable and more likely either to lead to or work against an overall resolution that addresses both parties’ interests.⁷² In 2012, the Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs approved a reporting requirement in connection with FY2013 appropriations that, if enacted, would have required the Secretary of State to differentiate between the original 1948 refugees and their descendants. In a letter to the subcommittee, the

⁶⁷ Ibid.

⁶⁸ H.R. 2855 (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014), if enacted, would require that before any contribution be made to UNRWA, the Secretary of State would report to the Committees on Appropriations on various UNRWA self-policing and transparency-promoting activities, including measures UNRWA takes to comply with Section 301(c) of the 1961 Foreign Assistance Act relating to preventing assistance to terrorists, and measures it takes to promote tolerance and employees’ impartiality. The Secretary of State can waive this reporting requirement if doing so is necessary to avert a humanitarian crisis. Past legislative proposals and report language have contained similar reporting requirements.

⁶⁹ Jonathan Schanzer, “Status Update,” *foreignpolicy.com*, May 21, 2012.

⁷⁰ Josh Rogin, “Senate fight today over Palestinian ‘refugees,’” *thecable.foreignpolicy.com*, May 24, 2012: “UNRWA has been using a definition that includes descendants of refugees while other U.N. bodies do not include descendants in their definition.” See also Jennifer Rubin, “Is the U.N. making the Palestinian refugee problem worse?,” *washingtonpost.com*, May 23, 2012.

⁷¹ “Exploding the myths: UNRWA, UNHCR and Palestine refugees” (quoting UNRWA spokesman Chris Gunness), *maannews.net*, June 27, 2011. The article quotes Gunness as saying that “in all cases, refugees and their descendants retain the status of refugees until that status lapses through the achievement of a just and lasting solution.”

⁷² See, e.g., Hilary Leila Krieger, “Palestinians: US refugee bill may delay peace,” *jpost.com*, June 5, 2012; Leila Hilal, “Israeli Leader Wrongly Blames UN and Arab States for Palestinian Refugees,” *theatlantic.com*, February 21, 2012; “Leila Hilal’s bizarre defense of UNRWA,” *jpost.com* (Warped Mirror Blog), June 7, 2012.

State Department objected, asserting that this requirement would be “viewed around the world as the United States acting to prejudge and determine the outcome of this sensitive issue.”⁷³

Issues for Congress in Determining Future Aid

Questions Regarding an Israeli-Palestinian Political Solution

Beyond the immediate objectives of U.S. assistance in improving security, facilitating development, and relieving humanitarian needs, the long-term utility of U.S. aid in encouraging regional stability and Palestinian economic and political self-sufficiency might depend to some extent on progress toward a political solution that addresses Palestinian national aspirations and Israeli security demands. Public debate continues and in some ways has intensified regarding the likelihood and desirability of a two-state solution or various possible alternatives, and regarding the extent to which potential political pathways might help the Palestinians become more cohesive, stable, and self-reliant. If successful, the recently resumed direct negotiations between Israel and the PLO (for details, see **Appendix A**) could present opportunities to solidify ongoing reform, development, and humanitarian efforts in the West Bank and Gaza that are backed by U.S. aid. A conspicuous failure that fuels destabilization, however, could endanger these efforts.

Many factors may complicate prospects for a negotiated political solution, including but not limited to:

- Discord within and among Palestinian factions—reflected geographically by divided rule in the West Bank and Gaza (unless and until consensus on interim governing arrangements and/or elections is implemented) and ideologically by Hamas’s refusal to join the PLO in forswearing violent resistance against Israel.
- Preconditions or conditions that Israel and the PLO have each attached to the negotiating process and/or a final-status agreement.⁷⁴
- Physical entrenchment of Israeli settlers in the West Bank and of obstacles to Palestinian movement within the West Bank and in and out of both the West Bank and Gaza, together with its political and socioeconomic consequences.
- Possibility of high-impact events—such as a major terrorist attack, a surprise election outcome, an outbreak of war, or pursuit by Palestinians of political strategies outside of negotiations with Israel.

⁷³ Text of letter dated May 24, 2012, from Deputy Secretary of State Thomas Nides to Senator Patrick Leahy, Chairman of the Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs available at <http://www.scribd.com/doc/94703915/DepSec-State-Opposes-Kirk-Amdt#download>.

⁷⁴ PLO Chairman Abbas has routinely demanded that Israel halt Jewish settlement construction in the West Bank and East Jerusalem and be willing to use the 1949-1967 armistice lines as the basis for border negotiations. In Israeli Prime Minister Binyamin Netanyahu’s June 14, 2009, speech accepting the concept of a two-state solution, Netanyahu insisted that the Palestinians would need to recognize Israel as the “nation state of the Jewish people” and accept demilitarization with “solid security measures.”

The Gaza Situation and Hamas

Hamas's control of Gaza presents a conundrum for many. Most parties, including Israel and the PA, have expressed concern that assisting Gaza's population and rebuilding infrastructure damaged in recent conflicts (one in 2008-2009, and one in November 2012) could bolster Hamas. Thus, while controlled levels of basic sustenance and medical supplies have been permitted to enter Gaza, reconstruction projects have generally been limited. However, in the past year, following both the November 2012 Israel-Hamas cease-fire, and the Egyptian military's ouster of former president Muhammad Morsi in July 2013, Israel has relaxed limits on the import of construction materials.

These events come within the context of ongoing developments in Egypt that have a number of implications for the Palestinians and Israel. Morsi had only taken small steps toward easing official controls on the passage of goods and people to and from Gaza during his tenure, and had not applied substantial pressure on Israel to ease its controls. Nevertheless, Hamas officials appeared to anticipate a number of political and economic advantages from an Islamist-ruled Egypt. Any such expectations were dashed with Morsi's ouster and the Egyptian military's subsequent operations to root out purported terrorism links between Gaza and Egypt's Sinai Peninsula—highlighted by the military's high-profile disruption of smuggling tunnels that had provided Hamas with significant tax revenue.⁷⁵ Egypt's quick transformation from a presumed, if cautious, benefactor of Hamas to an antagonist bent on boosting Fatah at its expense has presented challenges to Hamas's regional influence and continued control of Gaza.⁷⁶ It is unclear how power dynamics within Gaza will be affected by price shocks and power shortages owing to the tunnels' disruption; the actions of Hamas and other Islamist militant groups; continued Israeli-Palestinian negotiations; and various Israeli and international efforts to boost Fatah's image. Occasional skirmishes between militants and Israel in Gaza's border areas and continuing low-level rocket and mortar fire from Gaza and Sinai at targets in Israel could spiral into renewed conflict.

Despite a rebound in economic growth since Israel began easing its closure regime in 2010, real per capita GDP in Gaza at the end of 2012 remained approximately 15% less than at a 2005 pre-closure-regime peak—see **Figure 1** below. More goods have come into Gaza, and limited exports have resumed, but not to the Israel and West Bank markets that previously constituted about 85% of Gaza's exports.⁷⁷ It is not clear if, when, and under what conditions a full resumption of agricultural and industrial trade and movement of persons between Gaza and the outside world might be expected. Additionally, it is possible that either Hamas's positions on the Quartet principles⁷⁸ or its control over Gaza would have to change before substantial U.S. funds might be

⁷⁵ According to information provided to CRS by the Israeli non-governmental organization Gisha in March 2012, citing 2011 sources from the Israeli Ministry of National Economy and the Peres Center for Peace, smuggling tunnels account for approximately 80% of total imports into Gaza and accounted for approximately 60% of Hamas's 2010 total revenue (\$300 million out of \$500 million).

⁷⁶ A seemingly less influential Turkish profile and a recent Qatari leadership change have further complicated Hamas's efforts to maintain regional support. It is reportedly seeking to rebuild ties with Iran, though restoring these ties to their previous status may be unlikely given the estrangement that took place when Hamas left Damascus and broke off relations with the Asad regime in early 2012.

⁷⁷ Gisha – Legal Center for Freedom of Movement, “A Guide to the Gaza Closure: In Israel's Own Words,” September 2011.

⁷⁸ See footnote 4.

used in the reconstruction of buildings and infrastructure in Gaza, with the exception of U.N. facilities and other special cases such as international schools.

Some Members of Congress express concern periodically that bilateral assistance for Gaza or contributions to UNRWA could be misused and diverted to benefit Hamas or other terrorist groups. Yet, some Members of Congress advocate expanding the level and type of humanitarian and development assistance to Gaza—often at the same time they advocate easing, ending, or even challenging the Israeli-Egyptian closure regime—arguing that Gazans need more support to improve their economic, physical, and psychological situations. A 2012 U.N. report outlined several challenges to Gaza’s livability by extrapolating its conditions eight years forward to 2020.⁷⁹

Strengthening PA Leaders in the West Bank?

Paradoxically, instability in the West Bank and the Gaza Strip is both a major reason for relatively higher levels of U.S. assistance since 2008 and a factor that could lead some to oppose maintaining or boosting these aid levels. After Hamas’s takeover of the Gaza Strip and the dismissal of its PA officials by PA President Mahmoud Abbas in June 2007, a high U.S. priority has been to bolster the standing of the Abbas-led PA in the West Bank through economic development and civil security. Yet, if lawmakers detect that the PA in Ramallah is unable to achieve or maintain competent control in the West Bank, their willingness to provide resources and training might decrease, given concerns that aid could potentially be used against Israel.

Some observers argue that U.S. assistance does not enhance the legitimacy of Abbas and the PA, but rather detracts from it by leading some Palestinians to conclude that the PA is beholden to the United States. Others have warned that U.S. dependence on Abbas works against long-term stability by undermining mechanisms of democratic governance and enabling authoritarianism. Abbas’s further consideration of actions outside of negotiations with Israel—greater rapprochement with Hamas, international diplomacy aimed at garnering support for Palestinian statehood and isolating Israel, support for nonviolent protests in the West Bank, and even the threat of disbanding the PA—could decrease U.S. policymakers’ inclination to support a PA led by him.⁸⁰ Allegations of corruption from some commentators also may undermine U.S. support for Abbas.⁸¹

⁷⁹ United Nations Country Team in the occupied Palestinian territory, *Gaza in 2020: A liveable place?*, August 2012.

⁸⁰ H.R. 2855, if enacted with §7040(e) in its current form, would appear to condition FY2014 direct budgetary support to the PA on the Secretary of State certifying that the PA “is moving to halt anti-Israel incitement and is engaged in activities aimed at promoting peace, coexistence, and security cooperation with Israel.”

⁸¹ In testimony before the House Foreign Affairs Committee on September 14, 2011, Jonathan Schanzer of the Foundation for the Defense of Democracies proposed that “Congress should challenge the corrupt system created by Mahmoud Abbas. This includes, one, stricter oversight of the presidential waiver process that releases Palestinian funds each year. Two, oversight of the Palestine Investment Fund, including a full audit. Three, conduct an inquiry into the wealth of Mahmoud Abbas and his sons, Yasser and Tarek, to determine whether U.S. funds have contributed to their holdings. Four, demand an immediate resolution to the matter of the electric power plant in Gaza. U.S. taxpayers should not be [indirectly] financing Hamas. Number five, scrutinize the presidential budget of PA president Mahmoud Abbas.” GAO published a July 2013 report on U.S. involvement with the Palestine Investment Fund (PIF) in response to a request from Representatives Nita Lowey, Steve Israel, and Ted Deutch. The report stated that USAID has provided \$1.3 million in project assistance to an international school in Gaza that is owned by a PIF subsidiary, and that USAID and the U.S. Overseas Private Investment Corporation (OPIC) have provided assistance and/or loan guarantees to a West Bank mortgage lending corporation and a West Bank loan guarantee facility that PIF also supports. GAO, (continued...)

In April 2013, amid public criticism largely stemming from PA budgetary woes, PA Prime Minister Salam Fayyad—a former World Bank and International Monetary Fund official whose reform-minded proposals were closely linked with post-2007 increases in U.S. assistance—submitted his resignation to Abbas. This occurred within an environment of reported political infighting among Fayyad and various Fatah politicians and activists possibly seeking to protect Abbas from blame and/or to bolster their own prospects for leadership or leadership succession.⁸² Fayyad, though a self-proclaimed political independent and routinely critical of Israeli policies and actions, was reportedly characterized by various Hamas and Fatah figures as unacceptable because of his closeness to U.S. and other Western officials.

In early June 2013, Abbas appointed Rami Hamdallah, a university president in the West Bank and political newcomer, to replace Fayyad as prime minister. The extent and nature of the influence he will have within the PA is unclear. Many analysts interpret Fayyad's resignation and Hamdallah's appointment as a consolidation of Abbas's power, as Abbas simultaneously appointed or re-appointed some of his close associates to other key cabinet posts.⁸³ Some commentators have expressed concern that Fayyad's departure will damage efforts to promote the "new source of legitimacy" they say he introduced to the Palestinian national narrative—one based on internal reform and development, "not on a legacy of resistance or on religion."⁸⁴ Hamdallah submitted his resignation in late June, ostensibly due to dissatisfaction over the extent of his authority, but remained in a "caretaker" role and accepted re-appointment in August to head a government with essentially the same composition as the one that took office in June.

Possible Additional Palestinian Action in International Forums

With the resumption of direct negotiations with Israel in the summer of 2013, the PLO has indicated that international initiatives are on hold for now. However, future recourse by the PLO to international forums, either to seek greater recognition of Palestinian statehood, or to directly or indirectly pursue censure of or legal measures against Israel and/or Israelis for past and ongoing activities regarding the West Bank and Gaza, could lead to greater resistance to or scrutiny of U.S. aid to Palestinians. Past international action is discussed in **Appendix A**.

One possible reason that some Members of Congress have shown reluctance to continue funding the PA in light of Palestinian initiatives within the U.N. system is a possible perception of these Palestinian initiatives as an attempt to undermine the U.S. role as "honest broker" and guarantor of the peace process. U.S. lawmakers and officials also may view Palestinian action in

(...continued)

U.S. Programs Involving the Palestine Investment Fund, GAO Foreign Assistance Report 13-457, July 2013.

⁸² Charles Levinson, "Palestinian Shake-Up Roils Peace Bid—Prime Minister Fayyad, a U.S. Ally, Steps Down as White House Tries to Kick-Start Arab-Israeli Talks," *Wall Street Journal*, April 15, 2013.

⁸³ These include Shukri Bishara, the new finance minister; Muhammad Mustafa, new deputy prime minister (who also has responsibility for economic affairs and heads the Palestine Investment Fund); Ziad Abu Amr, another new deputy prime minister; Said Abu Ali, the incumbent interior minister (who has nominal responsibility over certain branches of the PA security forces); and Riyadh al Malki, the incumbent foreign minister. Arnon Regular, Roadmap Risk Assessment, Newsletter No. 365, June 2-8, 2013; Daoud Kuttub, "Hamdallah's Complicated Job as Palestinian Prime Minister," *Al-Monitor Palestinian Pulse*, June 3, 2013.

⁸⁴ Khalil Shikaki of the Palestinian Center for Policy and Survey Research, a prominent Palestinian polling organization, quoted in Isabel Kershner, "End of Palestinian Power Play Muddles the Peace Process," *New York Times*, April 15, 2013.

international forums as a sign that U.S. attempts to use aid for political leverage with the Palestinians are unproductive.

Following the adoption of U.N. General Assembly Resolution 67/19 in November 2012 (see **Appendix A** for more details), some Members of Congress proposed legislation⁸⁵ or sought Obama Administration action⁸⁶ seeking to close the PLO's representative office in Washington, DC. Some of these legislative proposals also sought to have any future Palestinian action that could lead to charges against Israeli nationals before the International Criminal Court (ICC) trigger a cutoff of U.S. aid to the PA. A similar provision in H.R. 2855 (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014) would prohibit aid to the PA if the Palestinians "request, petition, apply, refer, or actively support an investigation or prosecution of Israeli nationals before the International Criminal Court."⁸⁷ One source quoted Senator Lindsey Graham, co-sponsor of one of the November 2012 legislative proposals, as saying, "I do not mind helping the Palestinian people, who have many challenges, get a good economy and rule of law, a nation established on the West Bank. But I cannot, along with my colleagues, in good conscience send a billion dollars to an organization who is trying to use the political tool of the United Nations and the International Criminal Court to undermine [the peace process]."⁸⁸

However, U.S. lawmakers and policymakers may be reluctant to take drastic or permanent measures in reprisal for Palestinian action in international forums, or to encourage reprisals by Israel for such action, given possible

- desires not to undercut prospects for diplomacy;
- concerns regarding the PA's financial fragility and the disorder that could result from undermining West Bank self-rule institutions;
- concern that international and regional actors who may be willing to provide replacement assistance for the Palestinians in the event of a change to U.S. aid levels could influence the PA and the West Bank in ways that run counter to U.S. interests.⁸⁹

⁸⁵ Three amendments (S.Amdt. 3139, S.Amdt. 3171, and S.Amdt. 3203) responding to UNGA Resolution 67/19 were proposed to S. 3254 (the National Defense Authorization Act, 2013) prior to its passage in December 2012. None of the amendments were voted on.

⁸⁶ In December 2012, the then-current and -prospective chairs and ranking Members of the House Foreign Affairs Committee sponsored a letter to President Obama calling on him to close the PLO's representative office in Washington, DC. The text of the letter, which was signed by more than 235 Members of Congress, is available at http://www.scribd.com/doc/117655331/Letter-to-President-Obama-A-Majority-of-Members-of-Congress-Sign-Ros-Lehtinen-Letter-Urging-Consequences-for-Palestinians-UN-over-Unilateral-Stat?secret_password=scbcbqtlemlftdesloz.

⁸⁷ H.R. 2855, §7041(a)(2).

⁸⁸ Emily Cadei, "Palestinian U.N. Upgrade Triggers New Warning from Senators," *cq.com*, November 29, 2012.

⁸⁹ In testimony offered to the House Committee on Foreign Affairs, Subcommittee on the Middle East and South Asia, on July 10, 2012, Jonathan Schanzer of the Foundation for Defense of Democracies said, in addressing the possible consequences of a U.S. aid cutoff to the Palestinians, "I would say that, yes, we leave the playing field open to other bad actors to step in, whether it be Iran, Saudi Arabia, Qatar. I think there is no shortage of actors. Of course, the Muslim world is notorious for not making good on its pledges to the Palestinians for aid. But, nevertheless, if we stepped out, we certainly would lose our leverage and potentially yield it to other actors that are working against U.S. interests, and I would warn against it."

Hamas and a “Unity Government”?

As discussed above (see “Major Conditions, Limitations, and Restrictions on Aid”), although Fatah and Hamas have reached various tentative agreements since 2011 on a consensus PA governing arrangement, questions persist over whether and how the agreement might actually be implemented. These questions include how PA and Hamas security operations might be integrated, when and how Palestinian presidential and legislative elections might be conducted, and who might occupy PA government positions. Current law, which would assign the same legal consequences for full Fatah-Hamas power sharing to a PA government “over which Hamas exercises undue influence,” does not further define this phrase. Thus, it is unclear whether Hamas’s underlying approval of a PA government that includes formally non-aligned “technocrats” instead of Hamas members would be deemed to constitute “undue influence” over the government.⁹⁰

Future debates might focus on the following issues:

- Whether a “power of approval” by Hamas over a PA government, absent any further level of participation, should trigger a requirement for that government’s acceptance and compliance with the Section 620K principles discussed above.
- Whether to relax or tighten U.S. restrictions on which Palestinian party/ies should be answerable for accepting and complying with the Section 620K principles.
- Whether to grant the U.S. President discretion—under certain conditions and/or for specific purposes—to waive aid restrictions relating to a PA government that includes or involves Hamas but does not meet the Section 620K principles.

Assuming that the United States chooses not to engage with and/or contribute to a PA government that includes or involves Hamas, future debates might take place over the degree to which the United States should actively dissuade others in the international community—particularly European and Arab actors—from engagement and contributions.⁹¹

Economic Development and International Donor Assistance

In General

PA reform and economic growth proposals aimed at establishing a “de facto Palestinian state”⁹² have helped garner major international donor assistance pledges and promises of investment.

⁹⁰ If §7040(f)(1) of H.R. 2855 (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014) were to be enacted in the form that was reported favorably by the House Appropriations Committee in July 2013, it would consider a PA government resulting from any agreement with Hamas—regardless of the level of influence Hamas is deemed to exercise over the government—to have the same legal consequences as full power sharing.

⁹¹ Previously when Hamas participated in the PA government from 2006-2007, the European Union joined the United States in refusing to provide direct assistance to the PA. There are indications, however, that Europeans might be less willing to follow the U.S. lead in the event that another PA government including Hamas is formed.

⁹² See, e.g., Palestinian National Authority, *Palestine: Ending the Occupation, Establishing the State*, Program of the Thirteenth Government, August 2009, available at http://www.mideastweb.org/palestine_state_program.htm. A key passage from the document reads: “Out of respect for our citizens, and in recognition of their desire to live free and peaceful lives under national independence, we must answer their demand to see the fruits of the state-building project. (continued...)”

International pledges of support, however, have routinely proven insufficient to cover the PA's budgetary expenses, occasionally requiring efforts by PA leaders to obtain last-minute assistance and/or private financing or to temporarily curtail PA employee salaries. The financing gap between international donor commitments and the PA's budgeted needs may persist for the foreseeable future, partly in light of the domestic economic concerns of Western donors and competing regional demands for aid in Syria and Egypt.⁹³

This gap imperils essential public spending, including wages and social transfers. Analysts regularly speculate about the possible consequences for the PA's continued viability and for political and regional stability if it cannot meet its financial obligations, especially monthly salary payments for the more than 150,000 employees on its payroll.⁹⁴ Additionally, after the economic growth rate in the West Bank was approximately 9.4% in 2010 and 2011, estimated growth for 2012 was around 5.6%.⁹⁵ The combined West Bank and Gaza economy grew at a rate of only 2.7% in the first quarter of 2013, and the International Monetary Fund (IMF) estimates that real growth will average 3.25% in the West Bank and Gaza from 2014 to 2018.⁹⁶

The success of economic reform and development plans appears to hinge on the following factors:

- Keeping the public sector solvent enough to sustain long-term private sector development;
- Getting Israeli restrictions loosened or lifted on the movement of goods and people both within and out of the West Bank and Gaza⁹⁷ and on Palestinian development projects in so-called "Area C";⁹⁸ and
- Overall political progress to overcome Palestinian factional/geographical division and towards Palestinian statehood.

In recent years, a number of high-profile projects—housing developments, industrial parks, superstores, entertainment complexes—have been completed or undertaken in and around Ramallah, Bethlehem, Jericho, and the northern West Bank in an effort to jumpstart private sector

(...continued)

Against this background, the Palestinian government is struggling determinedly against a hostile occupation regime, employing all of its energies and available resources, most especially the capacities of our people, to complete the process of building institutions of the independent State of Palestine in order to establish a de facto state apparatus within the next two years. It is time now for the illegal occupation to end and for the Palestinian people to enjoy security, safety, freedom and independence."

⁹³ International Monetary Fund (IMF), *West Bank and Gaza: Staff Report Prepared for the Meeting of the Ad Hoc Liaison Committee*, September 11, 2013.

⁹⁴ One report estimates that 90,000 of the PA's employees are in the West Bank, and the other 60,000 are in Gaza. Reportedly, those in Gaza no longer actually work in civil service positions because the Hamas-led regime has replaced them. "Arab states 'completely incapacitated' PA by withholding aid, Fayyad says," *Associated Press*, January 6, 2013.

⁹⁵ IMF, op. cit.

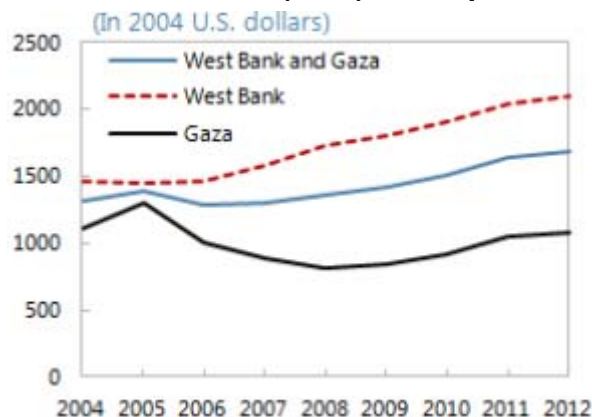
⁹⁶ Ibid.

⁹⁷ The current system of Israeli restrictions on movement within the West Bank can be traced to the time of the second Palestinian *intifada* (which began in late 2000), and the closure of Gaza crossings and ports to the Hamas takeover in June 2007.

⁹⁸ Zones denoted as "Area C" in the West Bank pursuant to the Israel-PLO Interim Agreement on the West Bank and the Gaza Strip, dated September 28, 1995, fall under Israeli administrative and security control.

development.⁹⁹ In May 2013, Secretary of State John Kerry, in conjunction with international Quartet envoy Tony Blair, announced a \$4 billion private sector investment project for the West Bank. According to the IMF, the feasibility and potential impact of the proposal depend on its details, which have not been released. The IMF has further opined that large-scale investment projects of this type would require “upfront and far-reaching relaxation of restrictions by Israel. At this time, Israel has not indicated that it will ease restrictions further, and there may be local implementation constraints.”¹⁰⁰

**Figure I. West Bank and Gaza Strip
Gross Domestic Product (GDP) Per Capita: 2004-2012**



Sources: Palestinian Central Bureau of Statistics; World Bank World Development Indicators and Worldwide Governance Indicators; United Nations Development Programme Human Development Report 2012; and World Bank Doing Business Report 2012.

Arab States

Congress has indicated its interest in staying abreast of the economic assistance that Arab state governments provide to the West Bank and the PA, sometimes requiring reports from the Administration on the subject.¹⁰¹ Arab states (especially Gulf states) provided large amounts of aid to the Hamas-led PA government in 2006-2007 after the United States and European Union withdrew their aid, but following the reinstitution of U.S. and EU aid in mid-2007, most of them reduced contributions.¹⁰² Routinely, they make generous pledges of aid to the Palestinians, but at times fulfill them only in part and after significant delay. The largest Arab donor to the PA budget is Saudi Arabia, which generally contributes between \$100-250 million annually.

⁹⁹ Some of these ventures have been supported by U.S. organizations—including the Overseas Private Investment Corporation (OPIC), the Aspen Institute, the Center for American Progress, and CHF International—affiliated or involved with a public-private partnership known as the Middle East Investment Initiative. See <http://meiinitiative.org>.

¹⁰⁰ IMF, *op. cit.*

¹⁰¹ See, e.g., H.Rept. 111-366 (to P.L. 111-117, Consolidated Appropriations Act, 2010): “The conferees direct the Secretary of State to provide a report to the Committees on Appropriations not later than 180 days after enactment of this Act on international participation, including by Arab states, in the economic development of the West Bank and support for the Palestinian Authority, similar to that proposed by the House. This report may be submitted in classified form, if necessary.”

¹⁰² See Glenn Kessler, “Arab Aid to Palestinians Often Doesn’t Fulfill Pledges,” *Washington Post*, July 27, 2008; “Falling Short,” *Washington Post*, July 27, 2008.

Arab governments' reluctance to fulfill pledges may stem from misgivings over "picking sides" in Palestinian factional disputes and from concerns that without imminent prospects either for domestic political unity or for progress on the peace process, any money contributed could be a waste. On the part of the Gulf states in particular, reluctance may also stem from a feeling that they are less responsible historically for the Palestinians' current situation than Israel, the United States, and Europe.¹⁰³ Also, according to *Reuters*, "A high of \$1.8 billion in foreign aid [from Arab countries to the PA] in 2008 plunged to \$600 million [in 2012], with Gulf countries scaling back their giving because of increased domestic spending over two years of Arab political uprisings and the global financial downturn."¹⁰⁴

Conclusion

Implementing U.S. bilateral assistance programs for the West Bank and Gaza and making UNRWA contributions present significant challenges due to regional political uncertainty, ongoing Israeli-Palestinian disputes, and concerns that aid might be diverted to Palestinian terrorist groups. Prospects for stability in the West Bank appear to hinge on improved security, beneficial political and economic developments, Israeli cooperation, and continuation of high levels of foreign assistance.

In assessing whether U.S. aid to the Palestinians since the June 2007 West Bank/Fatah-Gaza Strip/Hamas split has advanced U.S. interests, Congress could evaluate how successful aid has been in

- reducing the threat of terrorism;
- inclining Palestinians towards peace with Israel;
- preparing Palestinians for self-reliance in security, political, and economic matters;
- promoting regional stability; and
- meeting humanitarian needs.

Given that evaluation, Congress will assess future aid in the context of U.S. policy priorities. Such evaluation and assessment might influence its deliberations over

- which aid programs to start, continue, expand, scale back, change, or end; and
- which oversight, vetting, monitoring, and evaluation requirements to apply to various aid programs.

¹⁰³ See, e.g., Robert Bowker, *Palestinian Refugees: Mythology, Identity, and the Search for Peace*, Boulder, CO: Lynn Rienner Publications, Inc., 2003, p. 194.

¹⁰⁴ "Saudis to give \$100 million to Palestinian Authority," *Reuters*, January 16, 2013.

Appendix A. Recent Historical Background

Since the establishment of limited Palestinian self-rule in the West Bank and Gaza Strip in the mid-1990s, the U.S. government has committed more than \$4 billion in bilateral assistance to the Palestinians in the West Bank and Gaza,¹⁰⁵ who are among the largest per capita recipients of foreign aid worldwide.¹⁰⁶ This assistance has focused on the further development of the Palestinian economic, social services, and civil society sectors; and on strengthening the processes, governance, and security-providing capacities of PA institutions.

Following the death of Yasser Arafat in 2004 and his succession by Mahmoud Abbas as PA president in 2005, Congress and the Bush Administration increased U.S. assistance to the Palestinians. However, after the 2006 Hamas victory in Palestinian Legislative Council elections reversed the renewed sense of U.S. optimism in elected Palestinian leadership, U.S. assistance was restructured and reduced. The United States halted direct foreign aid to the PA but continued providing humanitarian and project assistance to the Palestinian people through international and NGOs. The ban on direct assistance continued during the brief tenure of a Hamas-led power-sharing government (February to June 2007). During that time, the United States and the other members of the international Quartet (the United Nations Secretary-General's office, the European Union, and Russia) unsuccessfully demanded that Hamas accept the Quartet principles—recognition of Israel's right to exist, renunciation of violence, and acceptance of previous Israeli-Palestinian agreements.

Subsequent events altered the situation dramatically. In June 2007, Hamas forcibly took control of the Gaza Strip. PA President and Fatah head Mahmoud Abbas, calling the move a “coup,” dissolved the power-sharing government and tasked the politically independent technocrat Salam Fayyad to serve as prime minister and organize a new PA “caretaker” government in the West Bank. Within days, the United States lifted its economic and political embargo on the PA.

The Bush Administration and Congress then boosted U.S. aid levels in hopes of fostering an economic and security climate conducive to peaceful coexistence between Israel and a future Palestinian state. The revival of Israeli-Palestinian negotiations for a final-status agreement in conjunction with the Annapolis Conference of November 2007¹⁰⁷ provided further impetus for U.S. economic support of institutional and societal building blocks for Palestinian self-governance. The Obama Administration has advocated a similar approach.

Secretary of State John Kerry announced the resumption of direct Israeli-Palestinian negotiations in July 2013, with an announced nine-month timetable to reach a substantive and lasting peace agreement addressing core issues in dispute (borders, security, refugees, the status of Jerusalem,

¹⁰⁵ Prior to the establishment of limited Palestinian self-rule in the West Bank and Gaza, approximately \$170 million in U.S. developmental and humanitarian assistance (not including contributions to UNRWA) were obligated for Palestinians in the West Bank and Gaza from 1975-1993, mainly through non-governmental organizations. CRS Report 93-689 F, *West Bank/Gaza Strip: U.S. Foreign Assistance*, by Clyde R. Mark, July 27, 1993, available on request to Jim Zanotti.

¹⁰⁶ Net official development assistance per capita figures for all countries for 2007-2011 are available at <http://data.worldbank.org/indicator/DY.ODA.ODAT.PC.ZS>.

¹⁰⁷ The Annapolis Conference was organized by then President George W. Bush and attended by Mahmoud Abbas, then Israeli Prime Minister Ehud Olmert, and several Western and Arab heads of state seeking to help restart the peace process following violence both among Palestinians and between Israelis and Palestinians earlier in the decade.

settlements, and water rights). The extent to which President Obama will directly involve himself in the process is unclear. Increasingly, Israeli Prime Minister Binyamin Netanyahu publicly states that achieving Israeli-Palestinian peace is important in order to avoid the possibility of a binational state. However, many observers assert that prospects for success may be dim given various factors. These factors include Israeli security concerns in the context of regional political turmoil, including the proliferation of minimally-governed spaces near Israeli territory in Lebanon, Gaza, Syria, and Egypt's Sinai Peninsula. Other factors potentially working against the negotiations' success may also include Abbas's questionable credibility as an interlocutor for all Palestinians—given Hamas's sizeable following and control of Gaza; continuing Israeli announcements of residential construction and planning in West Bank settlements and in East Jerusalem; and the possibility that Palestinian leaders could resume active pursuit of greater international recognition of Palestinian statehood.

On November 29, 2012, the U.N. General Assembly (UNGA) adopted Resolution 67/19 by a vote of 138 member states in favor, nine against (including the United States and Israel), and 41 abstentions. The resolution changed the permanent U.N. observer status of the Palestine Liberation Organization (or PLO, recognized as "Palestine" within the U.N. system) from an "entity" to a "non-member state." The change in observer status effected by Resolution 67/19 is largely symbolic.¹⁰⁸ At the same time, this change might increase the probability that the Palestinians and other international actors could take steps—particularly in the International Criminal Court (ICC)—to make legal action possible against perceived Israeli violations of various international laws and norms regarding the treatment of people and property in the West Bank and Gaza.¹⁰⁹

The adoption of Resolution 67/19 is part of a broader PLO effort to obtain greater international recognition of Palestinian statehood, possibly to strengthen the PLO's hand in negotiations. In September 2011, Mahmoud Abbas, who is the PLO's chairman, applied for Palestinian membership in the United Nations. The application remains pending in the Security Council's membership committee, whose members did not achieve consensus during 2011 deliberations.¹¹⁰ The application for Palestinian membership would likely face a U.S. veto if it came to a future

¹⁰⁸ The PLO has had permanent observer status at the United Nations since 1974. Following the adoption of Resolution 67/19, "Palestine" maintains many of the capacities it had as an observer entity—including participation in General Assembly debates and the ability to co-sponsor draft resolutions and decisions related to proceedings on Palestinian and Middle East issues. Despite its new designation as a "state," "Palestine" is not a member of the United Nations, and therefore does not have the right to vote or to call for a vote in the General Assembly.

¹⁰⁹ An April 2012 opinion by the ICC's Office of the Prosecutor, which determined that there was no basis for it to consider a declaration of consent by "Palestine" to ICC jurisdiction in the West Bank and Gaza, appeared to rule that guidance from the UNGA would be decisive in determining whether the PLO or Palestinian Authority had competence as a state to consent to ICC jurisdiction. International Criminal Court, Office of the Prosecutor, "Situation in Palestine," April 3, 2012. One analysis asserts, however, that legal ambiguities remain. John Cerone, "Legal Implications of the UN General Assembly Vote to Accord Palestine the Status of Observer State," *insights*, American Society of International Law, December 7, 2012. For more information on the ICC, see CRS Report R41116, *The International Criminal Court (ICC): Jurisdiction, Extradition, and U.S. Policy*, by Matthew C. Weed.

¹¹⁰ United Nations Security Council, "Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations," S/2011/705, November 11, 2011. Paragraph 19 of this report provides a summary of the varying views that committee members advanced regarding Palestinian membership: "The view was expressed that the Committee should recommend to the Council that Palestine be admitted to membership in the United Nations. A different view was expressed that the membership application could not be supported at this time and an abstention was envisaged in the event of a vote. Yet another view expressed was that there were serious questions about the application, that the applicant did not meet the requirements for membership and that a favourable recommendation to the General Assembly would not be supported."

vote in the Security Council. In the fall of 2011, the Palestinians did obtain membership in the U.N. Educational, Scientific and Cultural Organization (UNESCO).¹¹¹ They appear to be using their UNESCO membership to establish and advance claims of Palestinian “self-determination and cultural rights”¹¹² over sites such as the Church of the Nativity in Bethlehem. In June 2012, UNESCO inscribed (designated) the church as both a World Heritage Site and a World Heritage Site in Danger.¹¹³ Under U.S. laws passed in 1990 and 1994,¹¹⁴ Palestinian membership in UNESCO triggered the withholding of U.S. assessed and voluntary financial contributions to the organization.¹¹⁵ If the Palestinians were to obtain membership in other U.N. entities, the 1990 and 1994 U.S. laws might trigger withholdings of U.S. financial contributions to these entities. Such withholdings could adversely affect these entities’ budgets and complicate the conduct of U.S. foreign policy within the U.N. system and other multilateral settings.

¹¹¹ For more information, see CRS Report R42999, *The United Nations Educational, Scientific, and Cultural Organization (UNESCO)*, by Luisa Blanchfield and Marjorie Ann Browne.

¹¹² Isabel Kershner, “UNESCO Adds Nativity Church in Bethlehem to Heritage List,” *New York Times*, June 29, 2012.

¹¹³ Inclusion on the World Heritage List means that a site should be protected and preserved by the global community; inclusion on the Danger List means that a site is particularly threatened. In response to the designations, David Killion, U.S. Ambassador to UNESCO, stated that the Danger List is generally reserved only “for extreme cases, such as when a site is under imminent threat of destruction.” Killion also noted that in the past 40 years, only four other sites had been added to the Danger List. Statement by Ambassador Killion on the Emergency Inscription of the Church of the Nativity as a World Heritage Site, U.S. Mission to UNESCO, June 29, 2012.

¹¹⁴ P.L. 101-246 (Foreign Relations Authorization Act, Fiscal Years 1990 and 1991) and P.L. 103-236 (Foreign Relations Authorization Act, Fiscal Years 1994 and 1995).

¹¹⁵ In the Obama Administration’s FY2014 budget request, it stated that it “seeks Congressional support for legislation that would provide authority to waive” these legislative restrictions. FY2014 State Department Congressional Budget Justification, Volume 1: Department of State Operations, p. 494. If Members of Congress sought to lift or modify these restrictions, they could amend the applicable legal provisions or propose stand-alone legislation.

Appendix B. Congressional Holds on FY2011 and FY2012 Aid

Various Members of congressional committees with jurisdiction over the authorization and appropriation of U.S. aid to the Palestinians placed informal holds on the obligation of various portions of already-appropriated FY2011 and FY2012 assistance for the Palestinians. This was apparently largely because of Palestinian initiatives within the U.N. system seeking greater international recognition of Palestinian statehood.

Congressional holds on foreign aid are not legally binding on the executive branch. However, since the late 1970s/early 1980s, successive Administrations have generally deferred to holds placed by Members of pertinent committees. This is part of a process by which the executive branch consults with Congress to provide it with information or otherwise address committees' concerns prior to obligating funds subject to a hold. In 2007 and 2008, Representative Nita Lowey, then chairwoman of the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs, exercised holds partly in order to shape the conditions under which the United States could provide budgetary and security assistance to the West Bank-based PA following Hamas's takeover of Gaza and its dismissal from the PA government.¹¹⁶

By March 2012, all Members other than then House Foreign Affairs Committee Chairman Ileana Ros-Lehtinen had reportedly decided to release their holds on FY2011 funds.¹¹⁷ In April 2012, the *National Journal* reported that Secretary of State Hillary Clinton had decided to provide the entire remaining amount of appropriated FY2011 ESF project assistance despite Chairman Ros-Lehtinen's hold.¹¹⁸ The report cited an unnamed State Department official as stating that the funds deliver

critical support to the Palestinian people and those leaders seeking to combat extremism within their society and build a more stable future. Without funding, our programs risk cancellation. Such an occurrence would undermine the progress that has been made in recent years in building Palestinian institutions and improving stability, security, and economic prospects, which benefits Israelis and Palestinians alike.¹¹⁹

Prior to the release of congressional holds on FY2012 funding, the U.S. Agency for International Development (USAID) provided the following information to CRS on January 17, 2013:

Due to the existing hold on FY 2012 [economic support] funding, six projects were expected to close between March and May 2013. USAID therefore instructed the Chief of Parties for these projects to decelerate their project activities to continue a lower level of project implementation—in other words, to extend the duration of the program. With this deceleration, the six projects are now expected to have sufficient funding through dates that

¹¹⁶ "Splits Between U.S. and Europe Over Aid to Palestinians," *International Herald Tribune*, February 22, 2007; "Appropriator Wants Palestinian Authority Aid on Hold Until Accountability in Place," *CQ Today*, March 4, 2008.

¹¹⁷ "U.S. lawmakers release \$88.6 million in aid to Palestinians," *Reuters*, April 4, 2012. According to this article, Ros-Lehtinen reportedly agreed to release her hold over all but approximately \$60 million of the Economic Support Fund project assistance for the West Bank and Gaza, subject to various conditions.

¹¹⁸ Sara Sorcher, "Clinton Overrides Republican Lawmaker's Hold on Palestinian Aid," *nationaljournal.com*, April 11, 2012.

¹¹⁹ *Ibid.*

vary by project, between May-September 2013. All other USAID-funded projects are expected to run out of existing funds between June-December 2013 if they maintain a normal project implementation rate. Deceleration can involve the downsize of the project presence in country, including the termination of implementing partner staff.

On Dec. 30, 2012, the first termination notices were sent out to 17 partner staff working on the Health Flagship program implemented by Chemonics. The remaining 40 termination notices are expected to go out to the Health Flagship implementing partner staff between January 28, 2013 and March 31, 2013.

Author Contact Information

Jim Zanotti
Specialist in Middle Eastern Affairs
jzanotti@crs.loc.gov, 7-1441